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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10 089,598	07/01/2002	Shogo Kakiuchi	818330036	3037
26021 7590 10/09/2003 HOGAN & HARTSON L.L.P. 500 S. GRAND AVENUE SUITE 1900 LOS ANGELES, CA 90071-2611				
EXAMINER CRAWFORD, GENE O				
ART UNIT 3651		PAPER NUMBER		

DATE MAILED: 10/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/089,598

Applicant(s)

KAKIUCHI ET AL.

Examiner

Gene O. Crawford

Art Unit

3651

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on August 25, 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 6-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6 and 25-35 is/are allowed.
- 6) ☒ Claim(s) 1, 11-15, 17-19 and 22-24 is/are rejected.
- 7) ☒ Claim(s) 7-10, 20 and 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1, 11-15, 17-19 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaziura et al. in view of Ackley Sr., et al.

The conveying apparatus and method thereof disclosed by Kaziura et al. includes: **(claims 1, 19)** a rotary disc portion having a pair of parallel plates 1, 2 with a region defined therebetween, a gap³ formed on the region between plates 1, 2, a first suctioning device 10, a linear conveying portion having a pair of parallel conveying belts with a gap formed there between (figure 7); **(claim 11)** a second suctioning device provided between the parallel conveying belts 29; **(claims 12, 22)** a side surface inspection portion T₁₋₃; **(claim 13)** the linear portion including a first conveying portion 41 and a second conveying portion, one end of the second conveying portion being in communication with the other end of the first conveying portion as to further transfer the article; **(claims 14, 15, 23)** further comprising an aligning and supplying apparatus 14 including a turntable and a width guide 23 for supplying the outer peripheral surfaces of the pair of parallel support members, the aligning and supplying apparatus positioned opposite the first conveying portion; and **(claim 17, 18, 24)** a front surface inspection portion T₁₋₃, a back surface inspection portion T₄₋₆ and a sorting portion 42 wherein the articles are sorted in response to results obtained by the inspection portions.

Kaziura et al. discloses both rotary transfer devices and linear transfer devices each having suction means for feeding articles for one point to another in an inspection and sorting operation, but does not disclose the rotary transfer device in combination with the linear conveying portion. It appears inherently obvious from the teachings of Kaziura et al. that one so skilled in the art could use the rotary transfer device X₁ in place of conveyor 41 to feed articles from turntable 14' to the linear conveying portion A disclosed in figure 7. Furthermore, this appears to be a mere rearrangement of the parts disclosed in Kaziura et al. and would have been obvious design choice and expedient in view Ackley Sr. et al. The conveying apparatus of Ackley Sr., et al. includes the broad teaching of providing a rotary suction carrier as a transfer/conveying device in communication with a linear conveying portion (figure 1). It would have been obvious to one of ordinary skill in the art to provide the rotary suction device and method thereof disclosed by Kaziura et al. be in communication with the linear conveying portion to facilitate transfer of articles from one conveying portion to another separate conveying portion opposite the rotary suction device as taught by Ackley Sr., et al.

Allowable Subject Matter

3. Claims 6, 16 and 25-35 are allowed.
4. Claims 7-10, 20 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter: the conveying apparatus having a rotary disc portion with two plates and a gap therebetween including the unique features of 'supporting members located in the plate members to hold the articles in place and/or grooves provided about the periphery of each of the plate members' in combination with the rest of the claim language is not taught or fairly suggested by the prior art.

6. The following is an examiner's statement of reasons for allowance: the conveying apparatus having a rotary disc portion with two plates and a gap therebetween including the unique features of (i) 'an air shutting device positioned between the pair of parallel plate members, the air shutting device having a solid portion for preventing air suctioning'; and (ii) 'a thickness gate having a projection portion protruding toward the conveyed article to allow the article to be in a high attitude on the step portion' in combination with the rest of the claim language is not taught or fairly suggested by the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

7. Applicant's arguments, see page 15 of response, filed August 25, 2003, with respect to claims 7-10, 20 and 21 have been fully considered and are persuasive. The rejections of these claims have been withdrawn.

8. Applicant's arguments filed with respect to claim 1 have been fully considered but they are not persuasive. In response to applicant's argument that the combination of Kaziura et al. in view of Ackley, Sr. et al. would result in a redundant inspection system, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Furthermore, the Ackley reference was not introduced to teach an inspection system but was introduced to teach the broad combination of rotary and linear transfer devices.

In response to applicant's argument that the Ackley reference is silent as to the advantage of stably conveying and inspecting articles with need for minimal space, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Hence claim 1 stands rejected.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

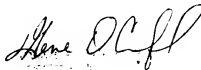
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gene O. Crawford whose telephone number is 703/305-9733. The examiner can normally be reached on Monday thru Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on 703/308-1113. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

gc

October 8, 2003

A handwritten signature in black ink, appearing to read "Gene O. Crawford". The signature is stylized with a large, looped "G" and "C".